



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
JOHN MARTIN	: EXAMINER: VAUTROT, D.L.
SERIAL NO: 10/821,949	:
FILED: APRIL 12, 2004	: GROUP ART UNIT: 2167
FOR: ELECTRONIC DISCOVERY APPARATUS, SYSTEM, METHOD AND ELECTRONICALLY STORED COMPUTER PROGRAM PRODUCT	:

DECLARATION UNDER 37 C.F.R. § 1.131

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

1. I am an adult over the age of 21 and a resident and citizen of the Commonwealth of Virginia. I co-founded Cricket Technologies, LLC ("Cricket"), a Delaware Limited Liability Company, and have been a Manager of Cricket since August 2001 pursuant to the Delaware Limited Liability Company laws.

2. Cricket was founded to provide electronic document management services to parties in Litigation (e-discovery services). Cricket has provided e-discovery services to law firms, corporate law departments, and other service providers (e-discovery market) continuously since August 2001. Since that time, the e-discovery market size has grown from an estimated \$100 million to \$4 billion, and e-discovery requirements have expanded to smaller cases with less value.

3. In anticipation of the growth and change in the e-discovery market, in mid 2002, I directed that Cricket hire a software development staff to develop software products that would provide the e-discovery market with an in-house tool to reduce the costs and that could be used by typical litigation support and paralegal staff employed by law firms, corporate law departments, and small to mid-sized service providers (e-discovery users). To carry out this plan, Cricket hired a Chief of Development and several programmers reporting to the Chief of Development.

3. Cricket's software development staff developed a first product called "iProfiler", that was at least partially described in now abandoned application 10/227,389 filed on August 26, 2002.

4. In the fall of 2002, it was apparent to me that the software surrounding iProfiler product was less than adequately stable. Thus, in December 2002, I met with the Chief Technology Officer, John Martin, during which he articulated his vision of "the Cricket Box", which would be the focus of intense and continuous attention of the software development staff from December 2002 to its actual reduction to practice in April 2003, when the product was demonstrated at a national conference of IPROtech, an important channel in the legal software market.. Moreover, the Cricket Box was a new software solution that would allow users to take digital information from any media, search and filter the data by the litigation criteria, and process the relevant files into databases for ultimate review by attorneys. Prior to the Cricket Box, Cricket had no in-house solution for the e-discovery market that provided the flexibility and ease of use of the product that we intended to design and build.

5. In addition to the actual reduction to practice, the main features of the Cricket Box were constructively reduced to practice in provisional applications 60/461,895 and 60/540,002, filed on April 11, 2003 and January 30, 2004, respectively. Subsequently, we filed the present utility application 10/821,949 on April 12, 2004, which claims priority to the two provisional applications.

5. The invention claimed in pending application 10/821,949 was conceived prior to the 35 USC 102(e) filing date of January 8, 2003 for provisional application 60/438,508, which is the priority document for U.S. patent publication 2005/014028.

6. The software development staff worked daily on the Cricket Box from prior to January 7, 2003 until at least April 11, 2003 (the filing date of priority provisional application 60/461,895) as is evidenced by my personal observations on the software development staff, Cricket's paystubs for the software development staff, mature beta software compiled on January 24, 2003, extensive software testing from January 24, 2003 until the Cricket Box was demonstrated at the IPROTech conference in Phoenix, Arizona in April 2003.

7. The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

  
Charles F. Smith

Date: 2-22-07